

**MAINE EMS  
INVESTIGATIONS COMMITTEE MEETING  
WEDNESDAY, DECEMBER 3, 2003  
MAINE EMS CONFERENCE ROOM, AUGUSTA  
RATIFIED BY THE MAINE EMS BOARD ON FEBRUARY 4, 2004**

**MEETING MINUTES**

**Present:** S. Leach, R. Doughty, A. Azzara, S. Dupler, O. Cassidy

**Staff:** D. White, D. Kinney

**AG:** L. Yustak Smith

**1. Call To Order:** The meeting was called to order at 11:38 a.m.

S. Leach advised the Committee that Board member Oden Cassidy was made a temporary appoint to the Investigations Committee for this meeting to ensure a quorum (C. Pillsbury and P. Knowlton were unable to attend and A. Azzara recused himself from the informal conference and decision in cases 03-14, 03-15, 03-16 & 03-17.

**A. Additions/Deletions to the Agenda – Applications – Brian Elliot**

**2. Investigations**

**A. Executive Session**

- i. Request for Investigations
- ii. Review Cases 02-07, 03-15, 03-16, 03-17

The Committee entered executive session for the purpose of discussing investigations:

***Motion: To enter executive session for the purpose of discussing investigations (Dupler; Azzara – motion carries)***

The Committee entered executive session at 11:39.m. and exited at 11:49 a.m.

***Motion: To initiate an investigation of the subject of case #03-20 (Doughty; Dupler – motion carries)***

***Motion: That the committee has been informed by staff that the subject of case # 02-07 no longer holds a Maine EMS license; that the committee directs staff to check with the Maine Health Information Center (MHIC) for activity by the licensee since the licensee's license***

*expiration; that staff report back to the committee if any activity is identified on the part of the licensee since the licensee's license expiration; if no activity by licensee is found by staff, to file the investigation until such time as the licensee applies for a license; and to notify licensee that the investigation is being filed and will be reopened if and when the licensee applies for licensure (Doughty; Cassidy – motion carries).*

**B. Informal Conference – Case # 03-14 and Consideration of cases 03-15, 03-16 & 03-17.**

The Committee entered executive session for the purpose of conducting an informal conference concerning case #03-14 and considering information in associated cases 03-15, 03-16 & 03-17:

***Motion: To enter executive session for the purpose of discussing Case #03-14 and considering information in associated cases 03-15, 03-16 & 03-17 (Doughty; Dupler – motion carries)***

The Committee entered executive session at 2:40 p.m. and exited at 4:01 p.m.

***Motion: That the committee finds in case #03-14 that the licensee willfully violated Maine EMS Rules (dated July 1, 2000) §11.A.2 – Violating a lawful order, regulation or rule of the Board, §11.A.3 Violating any of the provisions of 32 M.R.S.A. Chapter 2-B, §11.A.7 (a) Incompetent practice - A licensee shall be deemed incompetent in the practice if the licensee has engaged in conduct which evidences a lack of ability or fitness to discharge the duty owned by the licensee to a client, patient, or the general public and, 11.A.17 Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted to provide; that the violations are based upon Licensee's June 25, 2003, initiation and administration of intravenous therapy to a co-worker, which is not a skill or technique allowed at the Licensee's EMT-Basic level; that aggravating circumstances include that the initiation and administration of intravenous therapy is clearly not an EMT-Basic skill, that the licensee's conduct constituted a willful violation of Maine EMS Rules and the Paramedic program manual of the Paramedic course in which Licensee was enrolled; that mitigating circumstances exist in that no harm came to the recipient of the intravenous fluid, remorse was expressed by the licensee, and the licensee's company submitted a letter of recommendation on the licensee's behalf; that the Committee proposes to resolve this case by issuing a Letter of Reprimand to the licensee and by entering into a consent agreement with the licensee; that terms of the consent agreement include that the licensee agrees to a 90 day suspension of his EMT-Basic license, all but 15 days suspended with credit for 11 days of suspension that was previously imposed upon the licensee's employment by the licensee's employer, a \$350.00 fine, creation by the licensee of a Maine EMS approved continuing education class on the topic of scope of practice and delivery of said class to at least one Maine EMS-approved Advanced Licensure program within 180 days of the executed consent agreement; that the licensee agrees to the surrender of his Maine EMS license if Licensee is***

*found to have violated any Maine EMS Rules during the term of the consent agreement; and that the term of the consent agreement shall be 3 years. (Doughty; Cassidy, motion carries).*

*Motion: That the committee finds in cases #03-15, 03-16 & 03-17 that the licensees violated Maine EMS Rule (dated July 1, 2000) Chapter 2-B, §11.A.7 (a) Incompetent practice - A licensee shall be deemed incompetent in the practice if the licensee has engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client, patient, or the general public; that the violations are based upon the licensees' June 25, 2003, involvement in the initiation and administration of intravenous therapy by the subject of investigation # 03-14; that mitigating circumstances exist in that no harm came to the recipient of the intravenous fluid, remorse was expressed by the licensees, and the committee is satisfied that recurrence of such conduct is unlikely; and, that the Committee proposes to resolve this case by issuing a Letter of Reprimand to the licensees (Leach; Doughty – motion carries).*

### **3. Applications**

#### **A. Informal Review – Nate Sessions**

The Committee conducted an informal review with applicant Nate Sessions concerning Mr. Sessions history of criminal convictions.

*Motion: That the committee finds that applicant Nate Sessions (“Applicant”) violated Maine EMS Rules (dated July 1, 2000) §11.A.4 – Any criminal conduct or conviction, subject to the limitations of Maine statute. §11.A.5 Acting in ways which are dangerous or injurious to the public; that the violations are based upon Applicant’s convictions for Theft, Class D in 1997, Criminal Trespass, Class E in 1997, Probation Violation in 1997, Theft of Property Lost, Mislaid or Misdemeanor, Class E in 1997, and Forgery, Class D in 1997 that aggravating circumstances include that the offenses for which Applicant was convicted are crimes of dishonesty, that multiple crimes were committed, and that crimes were committed while applicant was on probation; that mitigating circumstances exist in that remorse was expressed by Applicant, Applicant demonstrated rehabilitation by demonstrating positive changes in his lifestyle that includes continuous employment with advancement and involvement in his company’s emergency response team, and letters of recommendation from his employer, a fellow EMS provider, his fire chief and his probation officer; that the Committee proposes to license Applicant subsequent to Applicant entering into a consent agreement; that terms of the consent agreement include that Applicant will pay the sum of \$120.00 to Maine EMS to cover the cost of State Bureau of Identification checks to be performed during the term of the consent agreement, that Applicant agrees to surrender his Maine EMS License if charges are brought against him in any state or Federal court during*

*the term of the consent agreement; and that the term of the consent agreement shall be 3 years and 11 months. (Doughty; Cassidy, motion carries).*

#### **B. John Benoit**

The committee reviewed the application of licensee John Benoit concerning history of a criminal conviction.

***Motion:** That the committee finds that John Benoit (“Licensee”) violated Maine EMS Rules (dated July 1, 2000) §11.A.5 Acting in ways which are dangerous or injurious to the public; that the violations are based upon Applicant’s 2001 conviction for Assault, Class D; that aggravating circumstances include that Licensee initiated the confrontation that led to the assault for which he was convicted; that mitigating circumstances exist in that Licensee has 10+ years of service to the EMS system and that Licensee provided a letter of recommendation from his EMS service; that the Committee proposes to license Licensee pursuant to a consent agreement; that terms of the consent agreement include that Licensee will pay the sum of \$105.00 to Maine EMS to cover the cost of State Bureau of Identification checks to be performed during the term of the consent agreement, that Licensee agrees to surrender his Maine EMS License if charges are brought against him in any state or Federal court during the term of the consent agreement; and that the term of the consent agreement shall be 3 years (Doughty; Cassidy, motion carries).*

#### **C. Nelson Bowden**

The Committee reconsidered its action concerning applicant Nelson Bowden, subsequent to a recommendation by Maine EMS’ Attorney General Representative. Bowden had reported 2002 convictions for Operating After Suspension, Class D.

Laura Yustak Smith AAG, suggested that the committee reconsider its action as the nature of the convictions could not support a defensible consent agreement.

***Motion:** That the committee rescinds its September 3, 2003 findings and action concerning applicant Nelson Bowden’s 2002 convictions for Operating After Suspension, Class D and directs that Mr. Bowden be licensed and that a Letter of Guidance concerning the aforementioned convictions accompany his license (Azzara;Dupler - 4-0-1, Doughty Abstains).*

#### **D. Addition to the Agenda – Brian Elliot**

Kinney reported that staff reviewed renewal application received from Brian Elliott and found that licensee failed to disclose on his renewal application his March 5, 1989 and July 25, 1989 convictions for Operating After Suspension. Mr. Elliot was issued a Letter of Warning for a similar matter on November 20, 2000.

The Committee voted to renew the license and issue a Letter of Guidance as the situation involved mitigating circumstances.

***Motion: That the committee finds that Brian Elliot did not completely disclose his history of March 5, 1989 and July 25, 1989 convictions for Operating After Suspension on his September 24, 2003 application for renewal of his EMT-Paramedic license; that his failure to disclose the convictions are mitigated in that the omitted convictions are minor and approximately fourteen years old, the omitted convictions would not, by themselves, disqualify him for licensure, Mr. Elliot disclosed a more recent conviction for Operating after Suspension on his September 23, 2003, application for renewal and that there is no evidence that Mr. Elliot intended to deceive or conceal material facts; that a Letter of Guidance be issued to Mr. Elliot along with the renewal of his license; and that the Letter of Guidance will remain in Mr. Elliot's file until February 2007 ( Leach:Dupler – motion carries).***

**4. Other – None**

**5. Next Meeting**

The next meeting is scheduled for Wednesday, January 7, 2003 after the Maine EMS Board meeting.

**6. Adjourn** – The meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Drexell White, Licensing Agent